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6 Attorneys for Defendants
BAUSCH & LOMB, INC. and
7 TECHNOLAS PERFECT VISION GMBH,
Incorrectly sued herein as
8 TECHNOLAS GMBH PERFECT VISION

9
10 UNITED STATES DISTRICT COURT
11 FOR THE NORTHERN DISTRICT OF CALIFORNIA
12 SAN FRANCISCO DIVISION

13 JOANNA KINZEL and BRENT
14 KINZEL,

15 Plaintiffs,

16 vs.

17 BAUSCH & LOMB, INC., BAUSCH
18 & LOMB SURGICAL, INC.,
TECHNOLAS GMBH PERFECT
19 VISION and DOES ONE through ONE
HUNDRED,

20 Defendants.
21

No. CV-12-4260 MMC

**STIPULATION AND
[PROPOSED] ORDER
RELATING TO DATES AND
DEADLINES FOR CASE
MANAGEMENT
CONFERENCE, STATEMENT,
INITIAL DISCLOSURES,
REPORTS AND ADR**

[L.R. 7-12]

22
23 **STIPULATION**

24 On August 13, 2012, an Order Setting Initial Case Management
25 Conference and ADR Deadlines was entered by the Honorable Maria Elena
26 James. Pursuant to that Order, October 25, 2012 was set as the last day to: (1)
27 meet and confer regarding initial disclosures, early settlement, ADR process
28

1 selection and discovery plan [Fed. R. Civ. P. 26(f) & ADR L.R. 3-5]; (2) file the
2 ADR Certification signed by the Parties and Counsel [Civ. L.R. 16-8(b) & ADR
3 L.R. 3-5(b)]; and (3) file either Stipulation to ADR Process or Notice of Need for
4 ADR Phone Conference [Civ. L.R. 16-8(c) & ADR L.R. 3-5(b) & (c)]. The
5 Order further set November 8, 2012 as the last day for the parties to file a Rule
6 26(f) Report, complete initial disclosures or state objection in Rule 26(f) Report
7 and file a Joint Case Management Statement [Fed. R. Civ. P. 26(a)(1) & Civ.
8 L.R. 16-9]. The Order scheduled an Initial Case Management Conference on
9 November 15, 2012. The Order further provided that if the Initial Case
10 Management Conference was continued, the other deadlines are continued
11 accordingly. Given the 15-day change in the setting of the Initial Case
12 Management Conference, the parties understood that the matters for which there
13 was a deadline of October 25, 2012 then had a deadline of November 9, 2012,
14 and that the matters that had a deadline of November 8, 2012 then had a deadline
15 of November 21, 2012.

16 On September 28, 2012 this Court entered a Reassignment Order, which
17 reassigned the action to the Honorable Maxine M. Chesney and vacated the hearing
18 dates scheduled by the prior order. On October 16, 2012 the Court entered a Case
19 Management Order resetting the initial Case Management Conference to November
20 30, 2012 and setting the deadline for filing a Joint Case Management Conference
21 Statement to no less than seven (7) days prior to the conference (i.e., November 21,
22 2012 given that November 22 and November 23, 2012 are court holidays). At the
23 request of plaintiffs' counsel, the Court issued an Amended Order Appointing an
24 International Process Server with respect to the remaining defendant. Counsel
25 for plaintiffs and counsel for Bausch & Lomb, Inc. then met and conferred, and
26 reached an agreement for certain limited discovery and an early mediation, and it
27 was anticipated that the remaining defendant would join in that agreement after
28

1 proper service of process has taken place. Plaintiffs and Bausch & Lomb, Inc.
2 thereafter requested that the Court extend the current deadlines, and continue the
3 Case Management Conference, so that they would have an opportunity to
4 participate in the agreed matters and determine whether the matter can be
5 concluded at that stage.

6 Plaintiffs and Bausch & Lomb, Inc. agreed that this action's procedural
7 status warranted an adjustment of the dates and deadlines previously set by the Court's
8 operative orders. The parties stipulated to adjustments to deadlines, as set forth in the
9 Order Setting Initial Case Management Conference and ADR Deadlines, filed on
10 August 13, 2012, and which had been extended due to the change in the Case
11 Management Conference, and to the Case Management Conference and deadline to file
12 the Joint Case Management Conference Statement. On October 31, 2012 this Court
13 issued an order pursuant to the stipulation of those parties changing the dates as
14 follows.

15 The last day for the parties to perform the following was adjusted
16 from November 9, 2012 to February 18, 2013: (1) meet and confer regarding
17 initial disclosures, early settlement, ADR process selection, and discovery plan
18 [Fed. R. Civ. P. 26(f) & ADR L.R. 3-5]; (2) file the ADR Certification signed by
19 Parties and Counsel [Civ. L.R. 16-8(b) & ADR L.R. 3-5(b)]; and (3) file either
20 Stipulation to ADR Process or Notice of Need for ADR Phone Conference [Civ.
21 L.R. 16-8(c) & ADR L.R. 3-5(b) & (c)].

22 The last day for the parties to file a Rule 26(f) Report, complete
23 initial disclosures or state objection in Rule 26(f) Report, was adjusted from
24 November 21, 2012 to March 4, 2013.

25 The initial Case Management Conference was re-set from
26 November 30, 2012 and now to be held before the Honorable Maxine M.
27 Chesney in Courtroom No. 7, 19th floor Federal Building at 10:30 a.m. on March
28

1 15, 2013.

2 The deadline to file a Joint Case Management Conference
3 Statement addressing each agenda item listed in the *Standing Order for All*
4 *Judges of the Northern District of California/Contents of Joint Case*
5 *Management Statement* was no less than seven (7) days before the conference
6 (i.e., March 8, 2013).

7 It ultimately took longer than initially anticipated for service of
8 process to take place per the Hague Convention in Germany on the remaining
9 defendant, i.e. Technolas Perfect Vision GmbH, incorrectly sued herein as
10 Technolas GmbH Perfect Vision ("Technolas"). Moreover, the earliest
11 mediation that could be scheduled by the parties with their chosen mediator,
12 Judge Richard L. Gilbert (Ret.), was March 20, 2013, at 10:00 a.m. which is the
13 current schedule for said mediation. Accordingly, the parties hereby stipulate to
14 adjustments to deadlines as follows:

15 The last day for the parties to perform the following is hereby
16 adjusted from February 18, 2013 to April 3, 2013: (1) meet and confer regarding
17 initial disclosures, early settlement, ADR process selection, and discovery plan
18 [Fed. R. Civ. P. 26(f) & ADR L.R. 3-5]; (2) file the ADR Certification signed by
19 Parties and Counsel [Civ. L.R. 16-8(b) & ADR L.R. 3-5(b)]; and (3) file either
20 Stipulation to ADR Process or Notice of Need for ADR Phone Conference [Civ.
21 L.R. 16-8(c) & ADR L.R. 3-5(b) & (c)].

22 The last day for the parties to file a Rule 26(f) Report, complete
23 initial disclosures or state objection in Rule 26(f) Report, is hereby adjusted from
24 March 4, 2013 to April 17, 2013.

25 The initial Case Management Conference is re-set from March 15,
26 2013 and now will be held before the Honorable Maxine M. Chesney in
27 Courtroom No. 7, 19th floor Federal Building at 10:30 a.m. on April 25, 2013.
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1 The deadline to file a Joint Case Management Conference
2 Statement addressing each agenda item listed in the *Standing Order for All*
3 *Judges of the Northern District of California/Contents of Joint Case*
4 *Management Statement* is no less than seven (7) days before the conference
5 (i.e., April 19, 2013).

6
7 IT IS SO STIPULATED.

8
9 DATED: February 21, 2013

HASSARD BONNINGTON LLP

11 By /s/ Thomas M. Frieder

12 Thomas M. Frieder
13 Attorneys for Defendants
14 Bausch & Lomb, Inc. and
15 Technolas Perfect Vision GmbH,
16 incorrectly sued herein as
17 Technolas GmbH Perfect Vision

18 DATED: February 21, 2013

19 WALKUP, MELODIA, KELLY &
20 SCHOENBERGER

21 By 

22 Doris Cheng
23 Attorneys for Plaintiffs
24 JOANNA KINZEL and BRENT KINZEL
25
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27
28

ORDER

PURSUANT TO STIPULATION, IT IS SO ORDERED, with the exception that the Case Management Conference is hereby CONTINUED to April 26, 2013.

DATED: February 22, 2013

Mafine M. Cherry
UNITED STATES DISTRICT JUDGE